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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,399	04/17/2000	Christopher J. Chase	03493.86913	1414

7590 10/10/2007  
Mr. S. H. Dworetsky  
AT&T Corp., Room 2A-207  
One AT&T Way  
Bedminster, NJ 07921

EXAMINER
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HOM, SHICK C

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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10/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/551,399

Applicant(s)

CHASE ET AL.

Examiner

Shick C. Horn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32, 34-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 32 and 34-35 have been considered but are moot in view of the new ground(s) of rejection.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/23/07 has been entered.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at

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the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 32 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frey et al. (5,982,783) in view of Aldred et al. (6,278,693).

Frey et al. disclose a network comprising: customer premises equipment; a frame relay switch coupled to the customer premises equipment with at least one permanent virtual circuit and receiving a plurality of frame relay data packets, the frame relay switch for translating user data within at least one of

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the frame relay data packets into a fast packet address (col. 15 lines 1-15 recite the frame relay module routing packets based on the board address, port number, and DLCI and performing DLCI translation for received and transmitted LAPD packets by maintaining a translation table that associates the translated DLCI with the VPI/VCI);

wherein the frame relay switch is responsive to a plurality of different service categories, said plurality of different service categories is supported over a plurality of different types of communication paths, wherein said plurality of different types of communication paths comprises at least two of: a public internet, a local intranet, or an extranet (col. 5 lines 18-53 recite the user network interface including support for different classes of service of voice, video, and data including constant bit rate, variable bit rate-real time, and available bit clearly anticipate switch being responsive to different service categories supported over different types of communication paths and col. 2 lines 14-47 recite interconnecting to a private or public network) as in claim 32.

Frey et al. disclose all the subject matter of the claimed invention with the exception of the switch being configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data as in claim 32,

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wherein the frame relay switch is responsive to Internet protocol (IP) data within the frame relay data packets as in claim 34; and wherein the frame relay switch is responsive to layer 3 Internet protocol (IP) data as in claim 35.

Aldred et al. from the same or similar fields of endeavor teach that it is known to provide the switch being configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data, wherein the frame relay switch is responsive to Internet protocol (IP) data within the frame relay data packets; and wherein the frame relay switch is responsive to layer 3 Internet protocol (IP) data (the abstract recite the communications system for transmitting and receiving data over a network being responsive to quality of service; col. 2 line 59 to col. 3 line 3 recite providing the quality of service parameters in the Internet Protocol in its route selection clearly anticipate the quality of service of the service categories responsive to layer 4 data and layer 3 IP data as claimed).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the switch being configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data, wherein the frame relay switch is

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responsive to Internet protocol (IP) data within the frame relay data packets; and wherein the frame relay switch is responsive to layer 3 Internet protocol (IP) data as taught by Aldred et al. in the communications network of Frey et al.

The switch being configured to determine a quality of service of the plurality of different service categories responsive to layer 4 data, wherein the frame relay switch is responsive to Internet protocol (IP) data within the frame relay data packets; and wherein the frame relay switch is responsive to layer 3 Internet protocol (IP) data can be implemented by connecting the Internet and providing the quality of service option of Aldred et al. to the network and equipment of Frey et al. The motivation for connecting the Internet and providing the quality of service option as taught by Aldred et al. in the communication network of Frey et al. being that it provides the desirable added feature of providing interface to the Internet and the desirable added feature of providing quality of service to the transmission of data in the system.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Timbs discloses a method and apparatus for converting data streams in a cell based communications system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Mon-Fri.

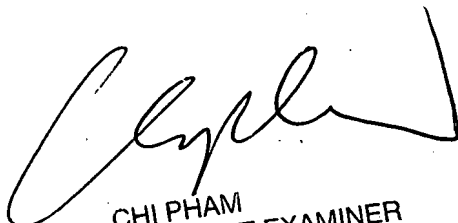
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pham Chi can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SH SH

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
6/5/07